


BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 97-239-C - ORDER NO. 2001-1088

NOVEMBER 30, 2001

IN RE: Proceeding to Establish Guidelines for an Intrastate Universal Service Fund.))))	ORDER RULING ON CONSUMER ADVOCATE, SECCA AND SCCTA PETITIONS
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This matter comes before the Public Service Commission of South Carolina (the Commission) on two Petitions for Rehearing and/or Reconsideration, one filed by the Consumer Advocate for the State of South Carolina (the Consumer Advocate), and the other jointly filed by the Southeastern Competitive Carriers Association (SECCA) and the South Carolina Cable Television Association (SCCTA) (collectively, the Joint Petitioners). Because of the reasoning stated below, we deny the Petition of the Consumer Advocate, and we grant in part and deny in part the Petition of the Joint Petitioners.

The Consumer Advocate states that on October 10, 2001, we issued our Order Approving Final Documents and Vacating Order No. 2001-954, which was Order No. 2001-996 in this Docket. To the extent that this Order readopted the findings and conclusions set forth in previous Orders in this Docket, the Consumer Advocate requested that we consider his letter a Petition for Reconsideration of Order No. 2001-996, on the grounds set forth in the Consumer Advocate's Petition for Reconsideration of Order No. 2001-419, filed on June 21, 2001. We would note that we denied the

Consumer Advocate's grounds in his Petition for Reconsideration in our Order No. 2001-0704. To the extent our Order No. 2001-996 readopted the findings and conclusions set forth in Order No. 2001-0704, and, for that matter, any other previous Orders in this Docket, we deny the Consumer Advocate's Petition for Reconsideration of Order No. 2001-996, for the reasons stated in Order No. 2001-0704, and other previous Orders in this Docket.

The Joint Petitioners allege that Order No. 2001-996 adopted USF Guidelines and Procedures which do not conform and comply with previous orders in this docket. First, the Joint Petitioners point out that USF Guidelines, Section 9, bullet 2, page 7 and Procedures, Section V provide that the state USF should be implemented in three or more phases. Also, USF Guidelines, Section 9, bullet 2, states that the Initial Phase of the state USF will implement up to 33% of the total state USF and will consist of two steps. The first step will consist of a reduction in intrastate access rates and the second step will consist of reductions in other rates providing implicit support for universal service. According to the Joint Petitioners this bullet item contains the following two differences from earlier proposals: (1) implementation in three or more phases and (2) the second step implementation was changed from consisting of changes in "end user rates" to changes in "other rates."

First, the portion of the Guidelines describing implementation in three or more phases is consistent with Paragraph 13 of our Order No. 2001-419, wherein this Commission adopted those parts of the South Carolina Telephone Association's (SCTA's) proposal, including modifications to the State USF guidelines that were not

inconsistent with the specific recommendations outlined and adopted above, and which instructed the Staff to modify SCTA's proposed Administrative Procedures to the extent necessary to be consistent with the recommendations adopted. Also, Paragraph 14 of Order No. 2001-419 described the benefits of the phased-in approach. Thus, implementation in three or more phases is consistent with our intent as expressed in Order No. 2001-419. We thus dismiss this alleged error.

With regard to the changing of "end user rates" to "other rates," however, we grant reconsideration, and hold that the language shall read as it originally did, i.e. "end user rates." This was a scrivener's error that should be corrected.

In addition to the above stated allegations of error, the Joint Petitioners further allege that the USF Guidelines and Procedures discriminate in the manner in which assessments of the surcharge are updated, in that new carriers would not have to contribute for a very long time after market entry. We dismiss this ground as non-meritorious. We believe that there will always be a time lag in trying to assess carriers, create a fund, and provide support to reduce implicit subsidies.

Next, the Joint Petitioners state that the manner in which assessments are billed to carriers is discriminatory in that there is no mechanism to adjust contributions based on gain or loss of customers. We disagree. Adjustments will be made annually, so that there will be a time lag. This is unavoidable, because of administrative burdensomeness.

The Joint Petitioners allege that there is no provision made for over-collection of funds by a particular carrier. It should be noted that surcharge is a recovery mechanism, not a "collect and remit" pass-through. This methodology is employed by the Federal

USF. If the surcharge was collected and remitted to PSC, it would not be workable, since carriers are not required to assess the surcharge.

In addition, the Joint Petitioners allege error in the fact that we relied on the testimony of Gary Walsh that the surcharge would be approximately 1.3% for the average residential customer for the initial step, and the actual surcharge is 2.13%. It should be noted that the Walsh figure was an estimate, based on the FCC's report of South Carolina revenues. Actual data collection was required to determine telecommunications revenues for assessment purposes.

Next, the Joint Petitioners complain that the USF Guidelines and Procedures provide that the total high cost support for each incumbent local exchange carrier for the second phase is not to exceed 66.67% of its maximum high cost support. See USF Guidelines, Section 9, bullet 5, pages 7, and Procedures, Section V, page 5. The Petitioners claim that the Orders issued in this docket do not support the inclusion of this provision in these documents. We disagree, and hold that this is required by paragraph 22 of Order No. 2001-419.

The Joint Petitioners further complain that the SCTA failed to serve any parties of record with a copy of the proposed USF Guidelines and Procedures at the time they were "filed" with the Commission. The problem with this allegation is that the Joint Petitioners are quoting and relying on Order No. 2001-954 which has been vacated. We would note that SCTA filed a letter asking this Commission to clarify that documents were not filed, and the Commission issued Order No. 2001-996. The Guidelines and Procedures were actually modified by the Commission Staff as directed by this Commission in Order No.

2001-419. The Staff presented the documents to the Commission for review to ensure consistency with the Commission's earlier Orders.

Further, no Administrative Procedures Act procedure was required under this scenario, as the Staff was merely submitting Guidelines and Procedures to implement the provisions of the Commission's Orders.

Accordingly, with the exception of the "end user rates" language matter as described above, we deny the Petition of the Joint Petitioners.

This Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:


Chairman

ATTEST:


Executive Director

(SEAL)